

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHANE DARSEN : CIVIL ACTION
v. :
CITY OF PHILADELPHIA, et al. : NO. 08-cv-02785-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

April 2, 2009

Plaintiff, Shane Darden, is a Caucasian Philadelphia police officer. Defendant Kimberly Lyons is an African-American Philadelphia police officer. On January 11, 2006, these two officers became involved in an argument, which escalated to physical violence. The incident has spawned a remarkable, and unnecessary, amount of litigation.

Ms. Lyons brought suit in this Court against Mr. Darden, the City of Philadelphia, and various officials of the Philadelphia Police Department (Civil Action No. 06-5195). In that case, Mr. Darden filed a cross-claim against the City of Philadelphia, and a counterclaim against Ms. Lyons. His counterclaim and cross-claims were all dismissed on summary judgment.

Mr. Darden then filed a new action in the Court of Common Pleas of Philadelphia County, naming as defendants Ms. Lyons and various Police Department officials (January 2008 Term, No. 1196). On May 27, 2008, Mr. Darden's complaint was dismissed with prejudice. The present action, in which Mr. Darden is suing

Officer Lyons, the City of Philadelphia, and various officials of the City, was filed on June 16, 2008. The defendants seek summary dismissal.

Initially, Mr. Darden predicated liability under § 1983 upon excessive use of force, and the City's alleged failure to supervise its police officers, or to screen them for potentially violent tendencies, or to discipline them adequately in order to prevent repetition of violent assaults. In his more recent filings, Mr. Darden has alleged claims based upon racial discrimination, particularly in the conduct of disciplinary proceedings against police officers (it is alleged, among other things, that both Ms. Lyons and Mr. Darden were disciplined for the original altercation, but that Ms. Lyons received more favorable consideration than Mr. Darden).

In my view, it is very clear that plaintiff cannot succeed in this litigation, because all of his claims could have been, and should have been, asserted in the earlier litigation. In short, issue preclusion is applicable.

An Order follows.

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ORDER

AND NOW, this 2nd day of April 2009, upon consideration
of the motion for judgment on the pleadings and/or motion for
summary judgment filed by the defendants, IT IS ORDERED:

1. That the defendants' motion is GRANTED.
2. This action is DISMISSED with prejudice.
3. The Clerk is directed to close the file.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.